IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2006

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

WRIT PETITION NO.5346 OF 1998

Ashok Timber Enterprises, rep.
by its Partner Mohan N.Patel

..Petitioner

Vs

1.Tamilnadu Small Industries
Development Corporation rep.by
its Chair Person-cum-Managing
Director, Paulwel's Road
Kathipara Junction, Chennai-16.

2.Tamilnadu Small Industries
Development Corporation rep.by
its Branch Manager, Ariyamangalam
Trichy-620010.

..Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order in reference in NO.8158/IE6/ 95 dated 28.3.1996 on the file of the first respondent and consequent letter NO.8158/IE6/95 dated 8.1.1998 on the file of the first respondent, quash the same and direct the respondents to hand over shed NO.1, Industrial Estate, Thiruverumbur without insisting for payment of the revised cost of Rs.2,14,038/- and written undertaking on the stamp paper.

For Petitioner : Mr.PL.Muthiah
For Respondents : Mr.V.Ramalingam

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O R D E R

The case of the petitioner is that they are carrying on the business in timber and running a saw mill. They made an application on 12.4.1995 to the first respondent for allotment of shed NO.1 in Thiruverumbur Industrial Estate. By an order dated 6.6.1995, the first respondent allotted the said industrial unit to the petitioner and the petitioner was intimated they should remit a caution deposit of Rs.4,000/- apart from the caution deposit of Rs.1,000/-, which has already been remitted. Further, the allotment was subject to the condition of payment of costs of the plot

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in a sum of Rs.2,92,500/- and costs of the building in a sum of Rs.47,400/- totalling to a sum of Rs.3,40,400/- along with 5% service charges in a sum of Rs.17,020/-. There was a further condition that the said costs are valid upto 30.6.1995 and the amounts have to be paid within the due date. It was further stated that the land value was valid upto 31.3.1996 and if the payment is not made, in the account of the next financial year, increased amount with 5% service charges would be collected.

2. On 19.6.1995, the second respondent sent a reminder demanding the cost of the shed in a sum of Rs.3,40,400/- and service charges of Rs.17,020/- on or before 30.6.1995. The petitioner was further informed that if the amount is not paid within the above said date, that would carry interest at the rate of 17% from 30.6.1995. That was followed by another reminder dated 31.10.1995. On 29.3.1996, the petitioner paid a sum of Rs.2,86,755/- which included the additional collection of shed cost of Rs.2,82,420/-. However, by proceedings dated 28.3.1996, which was served on the petitioner on 6.4.1996, it was informed that the allotment order has been cancelled on the premise that the balance amount has not been paid and the earnest money deposit of Rs.1,000/- and additional amount of Rs.4,000/- already paid by the petitioner were forfeited.

3. Thereafter, the first respondent, by his letter dated 18.9.1997 referring to the letter of cancellation dated 28.3.1996, required the petitioner to give a consent letter in a Rs.10/- stamp paper duly attested by a Notary Public undertaking that they would pay the difference in the cost of shed consequent to the revision of land cost and that the petitioner had to pay the revision of costs of the shed, since the land costs in the Industrial Estate, Thiruverumbur for 1995-96 was Rs.3,56,300/- against Rs.94,800/-, which had already been calculated. The petitioner has put in issue the original order of cancellation dated 28.3.1996 and the the letter dated 18.9.1997 requiring the petitioner to give an undertaking to pay the differential costs as quantified by them.

4. It is contended by the learned counsel for the petitioner that as per the terms of the allotment order, though the amount was directed to be paid on or before 30.6.1995, the petitioner paid a sum of Rs.75,000/- and thereupon, after receipt of the reminder prior to the receipt of the order of cancellation, on 29.3.1996, the petitioner paid the entire balance amount and interest as required by them, which have been accepted by the respondents without any demur. After a lapse of a year, now, the first respondent demanded the development charges and the land cost in a sum of Rs.2,14,038/-.

5. The writ petition was admitted on 17.4.1998 and interim order was granted on that date. On 13.3.2002, this Court passed an order to the effect that it was agreed that the petitioner should pay 50% of the demand and on such payment, the respondent should hand over possession. It was

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further directed that the petitioner should pay the amount in eight weeks and within four weeks thereafter, the respondent should hand over possession of the property. Further, the interim order already granted was made absolute on 13.3.2002.

6. It is submitted across the bar that the petitioner requested the respondents to quantify 50% of the amount to be paid by the petitioner so as to enable them to comply with the direction of this Court. However, the respondents failed to do the same. Hence, the petitioner was not in a position to comply with the order of this Court.

7. Now, the fact remains that the petitioner paid the amount as stated in the original order of allotment on or before 30.3.1996 along with interest and the respondents accepted the same. Even in the consequential order dated 18.9.1997, the second respondent referred to the order of the first respondent dated 28.3.1996 and required the petitioner to give an undertaking that he would pay the difference in costs of the shed, which is stated to be Rs.1,65,600/-. As already stated, since the petitioner is aggrieved by the demand made by the second respondent, they moved this Court and obtained an interim order.

8. The matter was argued on merits for some time. This Court directed learned counsel for the respondents to get instructions as to what is the stage in which the matter stands now and whether the respondents are willing to hand over possession, if the petitioner pays the differential amount with a reasonable interest. Learned counsel for the respondents has stated across the bar after consultation that the respondents are willing to accept the amount and hand over possession, as the property is still available with them in view of the pendency of the litigation. Learned counsel for the petitioner, having regard to the increase in land cost now to several manifold, has agreed to pay Rs.1,65,600/- with 9% interest from 8.1.1998 till date of payment.

9. Having reached a consensus between the parties, as stated above, nothing remains to be adjudicated on merits in this case. Further, as seen from the materials made available before this Court, the entire amount as quantified in the original allotment order dated 28.3.1996 has been paid prior to the crucial date i.e. 31.3.1996 with interest for the period from 30.6.1995 to 30.3.1996. The remaining needs to be done is to pay Rs.1,65,600/- with interest at 9% from 8.1.1998 till date of payment.

10. Accordingly, the petitioner is directed to pay Rs.1,65,600/- (Rupees one lakh sixty five thousand and six hundred only) with interest at 9% from 8.1.1998 till date of payment within six weeks from today. On such payment, the respondents are directed to hand over the plot by following due process of law and execute necessary deed. Failing to pay the said amount with interest as indicated above, it is open to the respondents to cancel the allotment and forfeit the amount already paid as per the terms of the allotment order dated 28.3.1996.

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11. The writ petition is ordered accordingly. NO costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1.The Chair Person-cum-Managing Director, Tamilnadu Small Industries Development Corporation, Paulwel's Road Kathipara Junction, Chennai-16.

2.The Branch Manager, Tamilnadu Small Industries Development Corporation, Ariyamangalam, Trichy-620010.

+ 1 CC To Mr. S.Ramalingam, Advocate SR NO.50513

+ 1 CC To Mr. P.B.Ramanujam, Advocate SR NO. 50420

RS

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